IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 526 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMESH RAISANG KOLI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 526 of 2001

MR YOGESH S LAKHANI for Petitioner No. 1

MR HH PATEL PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 07/11/2001

ORAL JUDGEMENT

#. Rule. Learned APP Mr.H.H.Patel waives for respondent - State. The issue involved in this Revision Application

is clearly covered by the decision of the Hon'ble Supreme Court in the matter of Bipin ShantilalPanchal vs. State of Gujarat, as reported in AIR 2001 Supreme Court 1158, wherein the Hon'ble Supreme Court has directed vide Para-13 as under :

"13. When so recast, the practice which can be a better substitute is this: Whenever an objection is raised during evidence taking stage regarding the admissibility of any material or item of oral evidence the trial Court can make a note of such objection and mark the objected document tentatively as an exhibit in the case (or record the objected part of the oral evidence) subject to such objections to be decided at the last stage in the final judgment. If the Court finds at the final stage that the objection so raised is sustainable the Judge or Magistrate can keep such evidence excluded from consideration. In our view there is no illegality in adopting such a course. (However, we make it clear that if the objection relates to deficiency of stamp duty of a document the Court has to decide the objection before proceeding further. For all other objections the procedure suggested above can be followed."

#. In this view of the matter, the above decision covers the recording of oral evidence as well and not only documentary evidence.

#. Therefore, the order impugned which is dated 29.11.2001 passed below Ex.82 requires to be set aside and learned Additional Sessions Judge, Dharangadhra is directed to record the question intended to be asked to the witness and record reply of the witness with objection of defence and decide the same finally whether that evidence is admissible or not. The Revision Application is allowed with the above direction to the Sessions Judge. D.S. is permitted. Rule is made absolute to the abvoe extent.

(J. R. VORA, J.)

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